

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

)
UNITED STATES OF AMERICA) No. 4:17-CR-00087-MAC-CAN
)
v.) SENTENCING
MOHAMMAD HASNAIN ALI,) MEMORANDUM
)
)

COMES NOW the Defendant, Mohammad Ali, by and through counsel of record, Catherine McDonald, and respectfully requests that this Court adopt and approve the sentencing agreement entered into by the United States and the Defendant, pursuant to Rule 11(c)(1)(C), of 36 months probation, and a fine in the amount of \$5,000.¹

In support of his request, the Defendant waived Indictment, and entered a plea of guilty to a violation of 18 U.S.C. § 1001(a)(2) - False Statement Regarding International Terrorism. This offense carries a penalty of not more than 8 years imprisonment and not more than a \$250,000 fine. In addition to his guilty plea, in consideration for the agreed sentence, the Defendant has cooperated with the Government and agreed to provide testimony, should it become necessary to do so in the future. In consideration for the above agreement, Mr. Ali also waived his right to object to venue, thereby permitting prosecution of the instant offense by the U.S. Attorney's Office in the Eastern District of Texas, which had investigated the defendant's conduct.² Further, grounds

¹ Pursuant to the plea agreement, defendant, Mohammad Ali, tendered the \$5,000 fine to the Eastern District of Texas, Tyler Division, Clerk's Office, on September 12, 2017.

² Mr. Ali's statement was made during questions at the DFW airport, located in the Northern District of Texas. See *United States v. Smith*, 641 F.3d 1200, 1209 (10th Cir. 2011) (holding that venue for a violation of 18 U.S.C. 1001(a)(2) was proper only in Minnesota when "the alleged crime occurred during an interview conducted . . . in Minnesota" and "[t]he false statements began, continued, and ended during the interview.").

SENTENCING MEMORANDUM

existed to challenge the admissibility of the § 1001(a) charge, had Mr. Ali elected to go to trial.³

Finally, the plea agreement reflects the unique circumstances of the offense and offense related conduct. Based on the above factors, the US Attorney's Office in the Eastern District of Texas, with the approval of the Justice Department, and agreement of undersigned counsel, agree that the interest of justice is served by the agreed sentence, and we respectfully request that this Honorable Court approve the sentence.

Respectfully submitted this 12th day of September, 2017.

/s/ Catherine McDonald

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³ After agents had executed their search warrant for the defendant's luggage, Mr. Ali was questioned by FBI agents at DFW airport in a small room without first advising Mr. Ali of his Miranda rights. *See United States v. Jayyousi*, 657 F.3d 1085, 1110 (11th Cir. 2011) ("When Agent Fincher accused Padilla of terrorist activities, a reasonable person would have felt subjected to a degree of restraint comparable to arrest. . . . Because the interview became custodial in nature, any statements Padilla made after he was accused of participating in terrorist activities and before he received his Miranda warning would have been inadmissible."); *see also Florida v. Royer*, 460 U.S. 491, 494-95 (1983) (suppressing consent to search when a defendant was detained at the airport and "involuntarily confined within [a] small room without probable cause").

SENTENCING MEMORANDUM

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2017, a copy of the instant Sentencing Memorandum was filed using the Eastern District of Texas's Electronic Filing System (ECF), which sent a notice of filing to all counsel of record.

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